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INTERVIEW OF JUDGE JAMES HORNADAY  
by Scott McEwen

December 22, 2014

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Recorded at

Homer Public Library  
Homer, Alaska

1 P R O C E E D I N G S

2 INTERVIEWER: This is an interview being conducted by  
3 Scott McEwen with Judge James Hornaday on December 22nd, 2014.  
4 The interview is taking place in Homer, Alaska, at the Homer  
5 Public Library. And I'm going to start with Judge Hornaday  
6 with our first question.

7 Can you tell me a little bit about yourself and your  
8 personal background?

9 JUDGE HORNADAY: Yes. Well, thanks for your  
10 interest. I was born in Des Moines, Iowa. Middle child. My  
11 dad was a salesman and my mother was a teacher at a business  
12 school. I was married. My wife, Karen, is deceased. I have  
13 four children: Mary, Dan, Josh and Matt. I have seven  
14 grandchildren, so far, and three great-grandchildren, so far.

15 I went to Theodore Roosevelt High School where we  
16 spoke softly and carried a big stick. Got active in local  
17 politics, student court. Worked at the YMCA camp. Worked on a  
18 farm. Also had a paper route.

19 Went to Monmouth College, majored in history. Was  
20 active in music and a lot of other activities. I had a  
21 painting company when I was in college and I painted barns and  
22 houses and buildings and things.

23 When I graduated from college I had a history degree  
24 with no education courses and trying to figure out what to do,  
25 so I thought I'd go to law school. Picked up a Juris Doctorate

1 at the University of Iowa.

2 I've taken some post-graduate stuff from Boston  
3 University and the University of Alaska and Harvard. And then  
4 I also attended the National Judicial College twice. And one  
5 summer I did spend in Oxford.

6 I don't know how far you want me to go with this, but  
7 one of my more interesting things has been in Global Volunteers  
8 where I've been in Africa and the Cook Islands and Ireland and  
9 all that sort of thing.

10 Been active in the Rotary, traveled to Russia,  
11 Habitat for Humanity, that sort of thing. I guess that covers  
12 my education.

13 Why did I decide to go into law? I had to do  
14 something with a history degree, and so I decided to go to law  
15 school. I did not like law school. I did not enjoy law  
16 school. I'm very glad that I did it because the sheepskin  
17 opened a lot of opportunities, but I did not enjoy law school  
18 with the Socratic dialogue. I think that's a terrible way to  
19 teach. But anyway, I survived it and just recently enjoyed my  
20 50-year law reunion back at the law school.

21 And as far as coming up to Alaska, I had a buddy in  
22 college, a fraternity brother, Tom Matthews, and we had our  
23 small college, Monmouth College in Monmouth, Illinois. Small  
24 liberal arts college, had a program called the Washington  
25 Semester and we studied, in the spring of 1960, at American

1 University and learned all about the process of government and  
2 the three branches and all that sort of thing, where I got into  
3 a press conference with Eisenhower and all that sort of thing.  
4 It was kind of exciting. I wrote my paper on the presidential  
5 press conference.

6           Anyway, we thought it might be neat to go to Alaska.  
7 And his dad knew a guy, who knew a guy, who knew a guy, who  
8 knew a guy who was going to give us a job at a sawmill in  
9 Juneau. And so I sold my painting company for one-way ticket.  
10 I still had a year to go in college, so my folks thought I was  
11 nuts. Of course I didn't have any money.

12           Anyway, we got to Juneau and the guy looked at us and  
13 said, oh, no, but go to Sitka. So we went to Sitka and we got  
14 on with a sawmill there, but it shut down after several weeks  
15 because of a safety situation. So the last day that it was  
16 open we were have -- we guys were eating lunch. And we had  
17 applied all over town. And this retired school superintendent  
18 came out, older guy, and he said -- looked at us and he said,  
19 okay, who's the guy that worked at the YMCA camp? Well, that  
20 was me. I had worked at the YMCA camp. And he said, all  
21 right, you're hired as a stream guard in the Tongass National  
22 Forest. And that was 1960, which was the first year that the  
23 Fish and Game, the state Fish and Game had taken over things  
24 like that.

25           So I had two great summers of living in the Tongass

1 National Forest. I had my own speedboat. And it was kind of  
2 exciting. I was the most hated man in the bay because those  
3 guys down at the federal government hadn't done anything as far  
4 as regulation, and so checking their licenses and stuff,  
5 sometimes that was kind of an unpleasant experience. But I  
6 survived and some thought I was lucky that I didn't end up as  
7 crab bait. But it was a great experience with the whales and  
8 the bears and the people down there. It was just -- I think  
9 that the Tongass is probably the most beautiful country in the  
10 world when the sun shines. It's even prettier than Homer,  
11 which takes some doing.

12           Anyway, went back, talked to the wife. Went to law  
13 school. Picked up a law degree. My wife got her "Ph.T." --  
14 paid teaching and "Putting Hubby Through." And then I talked  
15 her into coming up to Alaska. She had never done any camping  
16 or anything and we drove up. We just had one little girl at  
17 the time, Mary, which was a big surprise but turned out to be a  
18 blessing.

19           And when we got to Alaska, I ended up working for a  
20 law firm, which they subsequently fired me, but I still enjoyed  
21 that. And then I went to work -- I got a job as a law clerk  
22 for the four judges: Judge Fitzgerald, Judge Moody, Judge Davis  
23 and Judge Gilbert. And they were wonderful to me. I think I  
24 was the only Republican in the entire courthouse in Anchorage.  
25 Back then, in the sixties, the Democrats ran everything. I

1 mean everything, right down to the magistrates in the little  
2 towns. You had to be a Democrat to get any kind of a position.  
3 But it was a great experience.

4           And then Jim Fisher came up and literally -- he was  
5 practicing in Kenai and he basically dug me out of the  
6 courthouse in Anchorage and offered me a partnership, a 40  
7 percent partnership in practicing law in Kenai. So I went down  
8 and practiced in Kenai for 10 years with him.

9           I practiced at all different levels. I helped start  
10 the Kenai Peninsula Bar Association. I've also served for a  
11 number of years on the history committee for the bar. I was  
12 at --

13           INTERVIEWER: Judge --

14           JUDGE HORNADAY: Oh, excuse me. Go ahead.

15           INTERVIEWER: I had one question for you related to  
16 that experience early on the Kenai. I've read that some of  
17 your clients used land and fish as payment for legal services.

18           JUDGE HORNADAY: Yes. Yes, they did. And I was a  
19 deckhand on a salmon fishing boat, I enjoyed it. I could never  
20 make a living at that, but I did that for a couple of seasons.  
21 And we did. Sometimes we'd take fish and land in trade. And  
22 to show you how stupid we were, about 1967, I think it was, we  
23 got 40 acres on a lake and a cabin out in north Kenai --  
24 beautiful, beautiful spot -- and we couldn't wait to sell it.  
25 We just -- why would anybody want land and that sort of thing,

1 you know. And so we sold it, and if we had held onto it, we'd  
2 probably be millionaires now. But we showed those guys, we  
3 sold it right away.

4 Did the same thing, I had a lot over in Halibut Cove,  
5 which is now a residing area for wealthy people from Anchorage,  
6 I think. But we paid 2000 for it and we, the partner and I  
7 decided to sell it and we got 27,000 for it. We thought that  
8 was pretty good. Now it's worth probably 100 to 150,000. So  
9 we showed those guys.

10 Anyway, we did establish a scholarship in my wife's  
11 name at Monmouth College and Iowa Wesleyan College and also at  
12 the Homer and Kenai Alaska high schools. After my wife died --  
13 we took a sabbatical and bought a farm in Iowa and she died in  
14 a farm accident.

15 I got married again and then I left the bench and  
16 taught a couple of years at Iowa Wesleyan College. And the  
17 second marriage didn't work out, so I came back to Homer,  
18 started the newspaper, the Homer Tribune newspaper, which was  
19 fun. And practiced law for another 15 years, and volunteer  
20 work and things like that.

21 I've done -- when I was on the bench, one of the more  
22 interesting things I did was train magistrates in the Pribilof  
23 and the Aleutian Islands and all over the state. That was  
24 interesting. Let's see --

25 INTERVIEWER: I have one question for you, Judge.

1 JUDGE HORNADAY: Sure.

2 INTERVIEWER: I know you were appointed as a district  
3 judge by Governor Jay Hammond.

4 JUDGE HORNADAY: That's right.

5 INTERVIEWER: Can you tell me a little bit more about  
6 that appointment?

7 JUDGE HORNADAY: Well, I thought being a judge would  
8 be interesting and the position opened up in Homer. We  
9 conducted quite a campaign -- I got to go back in time a little  
10 bit when Jim Fisher got us to start the Kenai Peninsula Bar  
11 Association. And we were the only full-time lawyers on the  
12 Kenai Peninsula then. Now there's 50 or 60 and that's all  
13 traceable to Jim Fisher's starting everything. And Jim decided  
14 we needed a resident superior court judge, so we started to  
15 battle for it.

16 And one of the things we did, and it caused some  
17 friction with friends, we -- all the people who applied for the  
18 superior court judge -- I'll get to the district judge in a  
19 minute -- but the superior court judge in Kenai, we made the  
20 applicant sign in writing that they would actually move to  
21 Kenai. Well, some good friends that I took the bar with and  
22 all that, they wouldn't sign, and we opposed them. And Jim  
23 Hanson agreed to move to Kenai and he got the appointment, and  
24 so anyway, that worked out.

25 And about the same time the district court opened up

1 in Homer. I'm sure Clem Tillion, who was the senate president,  
2 had quite a bit to do with that. And so I applied, and it  
3 seemed like the right time to do things, and I got appointed.  
4 And it was kind of interesting, not too long ago, just before  
5 Jay Hammond passed away, he was a good friend of Clem Tillion's  
6 and they were out having lunch at Land's End and I came over to  
7 say hello. And Clem said, you know, Jay, you appointed Jim to  
8 the bench. And Jay Hammond looked at me, he said, oh, I  
9 apologize for doing that to you. He was quite a character.

10 INTERVIEWER: What year was the appointment?

11 JUDGE HORNADAY: I was appointed an acting judge in  
12 1976 and then I received the appointment from the governor in  
13 1977 and I served until 1989. Okay.

14 INTERVIEWER: Can you tell me some -- what it was  
15 like early on in the bench here?

16 JUDGE HORNADAY: Well, it was fascinating. We had a  
17 little -- we were in a building here with the Fish and Game and  
18 with the extension service. Everybody used the same bathrooms.  
19 You could hear what was going on. I know several times lawyers  
20 would get to yelling and then we'd have to continue the case  
21 because the jurors could hear the lawyers yelling out in the  
22 hallway.

23 It was interesting, setting up the court and getting  
24 it started. And then I did a lot of magistrate training.  
25 Actually, they trained me more than I trained them. And I also

1 did a lot of traveling. I tried cases in Seldovia, Seward,  
2 Anchorage, all over the place. And Seldovia was really  
3 interesting because on big trials we would try them in the gym  
4 and the whole town would show up. I know one time the  
5 superintendent of the cannery got charged with drunk driving  
6 and the whole town showed up. And everybody on the jury worked  
7 for the cannery and for some reason they found him not guilty,  
8 which I thought was kind of interesting. Ken Atkinson  
9 represented him. Ken just recently passed away. He was a long  
10 time Alaska lawyer who also was from Iowa, like me.

11 INTERVIEWER: Can you tell me about any mentors or  
12 role models you had or -- I know you've mentioned a few people  
13 that really kind of helped get you down here and get things  
14 started, but can you think of anybody else?

15 JUDGE HORNADAY: Well, yeah, Jim Fisher. I would say  
16 Jim Fisher was a role model. And of course the judges. And  
17 the judges helped me out a lot. Judge Moody really helped me  
18 later on in an issue that came up. Judge Fitzgerald was very  
19 helpful, as well as Judge Gilbert and Judge Davis.

20 When we were trying to get a superior court judge  
21 down here they kept saying you don't have any caseload, you  
22 don't have any caseload. Well, Fitz -- Judge Fitzgerald --  
23 everybody called him Fitz -- he became the presiding judge and  
24 I went up and worked on him a little bit. And so he sent all  
25 the files that involved the Kenai Peninsula down to Kenai and

1 that's how we built up our case file.

2           And Judge Moody was also very helpful. He was a  
3 character. He could swear in cadence and he had this southern  
4 -- he was from Alabama, so he had this southern accent. Da-da,  
5 da-da, da-da, da-da. And, boy, when he started in, you were  
6 hopeful that he wasn't heading for your office when you were  
7 clerking for him. But he was a very fair man.

8           And they were all Democrats. And I was, as I say, I  
9 think I was the only admitted Republican in the court. I think  
10 Jim Hanson was but I think he was pretty quiet about it. He  
11 was a magistrate at the time. But once in awhile I would sound  
12 off on my politics and they would just -- Judge Fisher had a  
13 shillelagh, I guess, that his father had brought over from  
14 Ireland. He would just sit there with that shillelagh and just  
15 laugh. They were very good to me.

16           The clerk -- gosh, I can't remember her name, but she  
17 had been on the traveling court, on the boat, in the federal  
18 system and all that. And, of course, they'd all been very  
19 active in Governor Egan politics and Gruening and Bartlett and  
20 all that. So it as a fascinating experience.

21           INTERVIEWER: How did things change the longer you  
22 served?

23           JUDGE HORNADAY: Well, you get more long-winded as  
24 Clem Tillion says. I don't know. When I retired, since I left  
25 the bench, I haven't really -- I've stayed kind of away from

1 the court system, so I'm not sure about what all is going on  
2 now, but I assume it's probably very similar.

3           One major change for me was I was primarily a civil  
4 lawyer and when I went on the bench I became more heavily  
5 involved in criminal trials. I tried mostly misdemeanor cases,  
6 but since I was the only one in the area, I handled a lot of  
7 other things, divorces and other things like that.

8           One of the more interesting things was the Native  
9 experience. In the sixties, when I lived in Kenai and also  
10 when I lived in Homer, the Natives, there didn't seem to be  
11 hardly any pride in being a Native. Some of them were Russians  
12 and attached to the church and that sort of thing. But it's  
13 really changed now. The Native land claims has really made a  
14 difference in that pride and, gosh, you go to Kenai now and  
15 almost every other building is owned by the Natives.

16           And in Homer here, the Natives are very active. They  
17 have a port, restaurants, they have a medical clinic, they have  
18 all kinds of important land and all that. They're a real  
19 important economic and political force, which I think is good.

20           But one of the things that we had was trying to  
21 figure out the communication. And I noticed this, especially  
22 when I would go to the villages, that if an Native -- it was  
23 usually a Native fellow brought up on some kind of a charge --  
24 it was very hard to get them to talk. And then we started to  
25 have some seminars on it and find out that they were actually

1 communicating but it wasn't oral, it was a different form of  
2 communication. And that was a fascinating experience. Of  
3 course, now the Natives are very active and I think the Native  
4 land claims was a wonderful thing. It was the largest Native  
5 settlement ever.

6 And now they're involved in -- the two largest  
7 employers in Alaska are Native organizations and they do  
8 business all over the world, so I think it's been a very  
9 positive development.

10 INTERVIEWER: Can you talk about the first case you  
11 remember and what that was like as a judge?

12 JUDGE HORNADAY: I don't remember because we would  
13 have these calendar calls and we'd have 20 or 30 cases on them.  
14 I don't remember the first case that I had. We would go to  
15 trial every now and then. We didn't do a lot of jury trials,  
16 but misdemeanors I think you probably have more trials. Well  
17 over half of the cases -- and I think that's still the case --  
18 were alcohol related.

19 I got in trouble when I -- kind of a sidebar here --  
20 we had a number of -- four or five -- gosh, there was three or  
21 four high school kids killed in drunk driving accidents. And,  
22 I don't know, seemed like the judges were afraid to give stiff  
23 sentences, they actually told me, because they didn't want the  
24 lawyers to give them bad ratings on the bar polls. And so,  
25 anyway, whether I was right or wrong, I started giving them 10

1 days in jail on first offenses. And it irritated some of the  
2 defense attorneys, I guess.

3           So they tried to move me to Anchorage and that's  
4 probably where I have made more substantial law than any other  
5 area, because -- and whenever they talk about the judicial  
6 system and judges' assignments, this case almost always comes  
7 up. The superior court judge said, well, we're going to move  
8 you to Anchorage. He had come down -- his name is Judge  
9 Rowland. We get along fine now but I didn't agree with what he  
10 did. He came down and met with a few of the defense attorneys  
11 and they said they were going to keep preempting -- you know,  
12 you can preempt in Alaska. Do you understand what that is?

13           INTERVIEWER: I do not, but --

14           JUDGE HORNADAY: Well, if you don't like the judge,  
15 you get one shot, you can preempt the judge and then they  
16 appoint another judge. And they said they were going to keep  
17 preempting me. And so he said, well, we're going to move you  
18 to Anchorage. And I said I don't think so. So I got a lawyer.  
19 Judge Moody, I talked to Judge Moody, and he thought it would  
20 be a good idea to have a lawyer take a look at it. So I got  
21 Henry Camarot, who was a well-known trial lawyer, and we  
22 prevailed in the lawsuit.

23           INTERVIEWER: What year was that?

24           JUDGE HORNADAY: Oh, gosh, I don't remember. It was  
25 about five years in. I would say sometime in the late

1 seventies or early eighties. And anyway, I stayed in Homer, so  
2 I think I'm the only judge that ever filed a lawsuit to stay in  
3 this little town. It was kind of interesting, the ministers  
4 supported me and they had a big gathering at the high school, 3  
5 or 400 people showed up. Judge Burke came down, he was Chief  
6 Justice, and held a hearing and that sort of thing.

7           But as far as affecting the legal system, that case  
8 is probably the one that will remain. I'm not real proud of  
9 it, but I -- well, I kind of am because I think I was standing  
10 up for the independence of the judiciary. If a couple of  
11 lawyers can move you out, that's not a good thing. And he  
12 didn't talk to the bar association. I was a charter member of  
13 the Kenai Peninsula Bar Association. He never met with the  
14 bar. He just came down on his own and met with a few defense  
15 attorneys. And I thought that was wrong, and so whatever your  
16 opinion is on that, that's probably the most important case  
17 that I was involved in.

18           INTERVIEWER: Well, the other thing I've read about  
19 you is you're credited with starting the first work program in  
20 the state for offenders. And would you agree with that or --

21           JUDGE HORNADAY: I'm not sure. I think we were one  
22 of the first. We had a guy here named Brother Asaiah Bates --  
23 I don't know if you've run into him or not -- but he was a real  
24 saint guy. He was with the Barefooters, but then he kind of  
25 got away from them. And he was really a fascinating guy. He

1 kind of combined -- you know, in the sixties we had a lot of  
2 hippies coming up. And you had the rednecks and the hippies  
3 and all that, and he could kind of identify with both parties.  
4 There's been books written about him. He had a janitorial  
5 business, so he knew about the private business. But he and I  
6 got together -- I happened to be president of the little league  
7 at the time and we needed work done on the baseball fields, and  
8 so these guys would much rather get out and get out and work on  
9 that.

10 Another area that I think we were one of the first  
11 was on domestic violence. And the -- I can't remember exactly  
12 when that was, but it was shortly after I was appointed -- and  
13 the legislature passed a bunch of domestic violence laws and  
14 the judges didn't know what to do with this. Some of them  
15 thought it was unconstitutional because, as I recall, if there  
16 was enough to arrest a guy with domestic violence -- and it was  
17 usually a guy; sometimes it was a woman, but it was usually a  
18 guy -- then the guy had to spend the night, automatically spent  
19 the night in jail just on the ex parte comments of the woman.  
20 And some of the judges thought that was unconstitutional.

21 And we had -- it was usually women who would come in,  
22 and obviously they were upset, and some of them were bruised up  
23 and little kids hanging on them. And the court can only hand  
24 them a series of forms to fill out, but we couldn't sit down  
25 with them and show them how to fill out the form because we had

1 to be fair and impartial.

2           So there was a young woman named Carol Swartz who  
3 lived here and she ran the Peninsula Women's Services. She's  
4 now the college director here. But she came over and said  
5 start sending these people to us and we'll counsel them. And  
6 she's a very energetic person, very hard to say no to, and a  
7 very, very capable young woman. And the more I thought about  
8 it, that made sense. So we started just assigning, when these  
9 women -- and usually it was women; sometimes it was a man --  
10 but anyway we would say now you go over and talk to women's  
11 services and they'll show you what's going on in the court.  
12 And then the women's services would show up in the court to  
13 kind of assist them.

14           And I think that's still going on in some fashion,  
15 and I think almost every court in Alaska now has some program  
16 like that where you can go and get some counseling on how to  
17 address the court system. Whether it's an attorney or not, I  
18 don't know, but there's some form of that all over. But I  
19 believe we were the first in the state on that one too.

20           INTERVIEWER: All right. I have another question for  
21 you. How would you characterize your relationship with  
22 colleagues on the bench and with other members of the bar  
23 association?

24           JUDGE HORNADAY: Well, it was quite a change because  
25 I had helped found the, with Jim Fisher, start the Peninsula

1 Bar Association and when you go on the bench, you can't have  
2 all of those close associations. And I know some of times I've  
3 seen in Supreme Court opinions, some of the arguments have been  
4 about judges' impartiality. Well, he had lunch with the  
5 attorneys and all that sort of thing. So you kind of had to  
6 cut down on your personal contacts with attorneys.

7           The way I handled it, is I figured if it was a bar  
8 association meeting I could go, that was okay, because that  
9 was, you know, an official meeting. But I did have to cut out  
10 a lot of the personal contacts. And when I traveled, it was  
11 especially hard. Like in Seldovia, I think, in some of these  
12 villages, Dillingham and Naknek, there's only one restaurant,  
13 so everybody, when you break for lunch, everybody would go to  
14 lunch. Well, you kind of had to be careful that you didn't sit  
15 at the table with one of the defense attorneys or with the  
16 district attorney because that made it look like you were maybe  
17 swinging one way or the other. So, anyway, that made life kind  
18 of interesting.

19           INTERVIEWER: What do you think is the most -- been  
20 the most satisfying thing about serving on the bench?

21           JUDGE HORNADAY: Well, probably one of the most  
22 difficult but it was probably the most satisfying for me was  
23 just trying to do the best that you could and be fair and issue  
24 an opinion that was based on the law and the facts. And I  
25 certainly tried to do that. I guess that was the most

1 satisfying experience that I had.

2           Also, expanding and providing judicial services  
3 locally. Before we had the local judges on the peninsula,  
4 everything was in Anchorage. And the judge would come down  
5 once a month and it was kind of a standing joke. He would  
6 divorce half the people in town and then get back on the plane  
7 for Anchorage. And you would have to go up to Anchorage and  
8 sit through the Anchorage calendar. And sometimes you'd get up  
9 to Anchorage and they'd misplace the files and so it was a  
10 worthless trip and that sort of thing. It was very expensive  
11 to have our clients having to go to Anchorage. And when we got  
12 these resident judges in Kenai and Homer, it made a big  
13 difference.

14           INTERVIEWER: What was appealing as -- it sounded  
15 like Clem Tillion was really instrumental in having it here in  
16 Homer, for you starting up the system here, but what appealed  
17 about Homer as you began living here and spending more time  
18 within the community?

19           JUDGE HORNADAY: Oh, it was beautiful. First time I  
20 came to Homer was in 1964, and we just had Mary, and we spent a  
21 lot of weekends on the peninsula. It's beautiful, beautiful  
22 country. The people are great. It's been a real wonderful  
23 experience with this community.

24           INTERVIEWER: What do you think have been the most  
25 challenging or frustrating things about being a judge?

1           JUDGE HORNADAY: Well, when they tried to move me to  
2 Anchorage when just a couple of defense attorneys were  
3 complaining about me. That was very frustrating. I had to  
4 hire a lawyer and that sort of thing. And apparently the court  
5 system was really ticked off about it because the director  
6 apparently made the comment that if -- I lost in the -- at the  
7 superior court level and we had to take it up to the Supreme  
8 Court. We hired a law professor and all that sort of thing.  
9 And supposedly the director of the court system said if they  
10 won this case, they wanted to get actual attorney fees out of  
11 me because they were really ticked off that I was suing them.  
12 Because, you know, they said, well, it's too expensive, so --  
13 and so I said, well, how much are the other judges -- how much  
14 are you spending on the other judges? And, boy, it really  
15 irritated some people in the system. But I also had a lot of  
16 support from my former employers.

17           INTERVIEWER: Well, I know as a judge you're always  
18 -- you're faced with having to make tough decisions and  
19 controversy and criticism. How do you think you handled that?

20           JUDGE HORNADAY: Well, I guess people would have  
21 different opinions on that. I was told by a woman lawyer that  
22 I was fair to everyone and that she thought that some of the --  
23 well, weren't too respectful of the women attorneys. I tried  
24 to be respectful of all the attorneys and the people that came  
25 before me.

1           Now you'll probably find differing opinions from  
2 lawyers and other -- you know, when you make decisions, half  
3 the people win, half the people lose. And if you lose,  
4 sometimes you have a different opinion on that. I did survive  
5 three judicial elections. You know, in Alaska we have the  
6 Missouri system, which means that the governor appoints and  
7 then the judges run every so many years for a yes or no vote.  
8 And I was reelected three different times, so I guess according  
9 to the people I was doing something right.

10           And I ran into, the Judicial College, judges from  
11 areas that elected the judges, and boy I'm glad we don't do  
12 that in Alaska. They run on, you know, political party lines  
13 and I don't know how you could possibly, if some lawyer  
14 organized a campaign against you or for you -- I mean, I don't  
15 know, I think that would be hard to -- but I ran into some  
16 judges at the Judicial College that said, yeah, if some  
17 attorneys gave them a hard time in the election they  
18 retaliated. And I thought that was really bad.

19           I know specifically there was a fellow from a town,  
20 Akron -- I think he was from Akron, Ohio, and he happened to be  
21 a Democrat, but he said if you wanted to be a Democrat and if  
22 you wanted to be a judge in Akron, Ohio, you went down and got  
23 the blessing of the democratic party. And I said, well, doesn't  
24 that cause a problem if here comes these guys into court and  
25 they've supported you and all that? Oh, no, that really

1 doesn't make any difference. But I think it does. I'm glad  
2 that we don't elect the judges up here. It's not a perfect  
3 system, but I think it's a better system than electing the  
4 judges.

5 INTERVIEWER: So as far as if you did make what was  
6 perceived to be an unpopular decision in Homer, what were your  
7 interactions like with the community after your decision was  
8 made?

9 JUDGE HORNADAY: Well, in a little town you're going  
10 to meet them, standing in line at the post office and the --  
11 you know, at the grocery store and all that. Once in awhile  
12 they'd snarl, but I didn't have too much trouble with that.

13 I met a lot of young men in traffic court. My future  
14 son-in-law and the skippers on the -- what's that boat out of  
15 Homer that's on the TV?

16 INTERVIEWER: Oh, the Time Bandit?

17 JUDGE HORNADAY: Yeah. I met both of those guys  
18 early on. Young men. They're, of course, doing fine. And of  
19 course my own boys were -- I didn't handle those. I had to  
20 turn that over to the magistrate. But met a lot of really --  
21 one of the things that was kind of fun, Anna Creasy was the  
22 magistrate and the clerk of the court for many years, as was  
23 Amy Morris. But Anna was raised in -- she was half Eskimo.  
24 She was from Point Lay and she was a clerk up in the Fairbanks  
25 court. And there was a saying the court system that there's a

1 right way, the wrong way, and the Fairbanks way. And we always  
2 did things the Fairbanks way because Anna was from Fairbanks.  
3 She was a wonderful lady. Very, very capable too.

4 INTERVIEWER: So were those misdemeanors most of the  
5 time --

6 JUDGE HORNADAY: Most of the time, yeah.

7 INTERVIEWER: -- with the young men that you were  
8 talking about?

9 JUDGE HORNADAY: Oh, yeah. Yeah.

10 INTERVIEWER: Yeah.

11 JUDGE HORNADAY: Once in a while the women got in it,  
12 but it was usually young guys that got in trouble.

13 INTERVIEWER: Did it have a lot -- anything to do  
14 with just Homer being a fishing community or was it more  
15 general in nature, do you know?

16 JUDGE HORNADAY: Oh, I think it's more general in  
17 nature. I think generally the young men are the ones that are  
18 usually in the court system. Alcohol, now marijuana. Now  
19 we've legalized marijuana, which I think was a huge mistake. I  
20 just saw too many lives ruined by marijuana in my court system  
21 days. I guess we'll have to figure out what to do with it.

22 INTERVIEWER: What qualities do you think made you an  
23 effective judge?

24 JUDGE HORNADAY: Well, again, as I say, you'll  
25 probably find differing opinions on that. I tried to listen to

1 both sides, apply the law and the facts.

2 INTERVIEWER: Well, I'm going to deviate a little,  
3 just from my time in Homer here. Homer has the reputation, I  
4 guess for better or for worse, as being a pretty liberal  
5 community, but since I've lived here and follow voting and met  
6 quite a few people here in town, it seems to be a real mix.  
7 It's almost like 50/50 and people kind of look at each and  
8 really listen a little bit more, certainly than when I was in  
9 Anchorage. Do you think that's the case?

10 JUDGE HORNADAY: Well, I don't know if it's connected  
11 or not, but somebody did a survey, whether it's valid or not,  
12 and concluded that Homer had more advanced college degrees pro  
13 rata than any other community in the world, or at least in the  
14 United States or Alaska. Homer is hard to figure out. I know  
15 in the sixties we had the hippies and they had -- they ran  
16 around at The Club bar. And we had the rednecks -- I think  
17 it's called Kharacters now. The rednecks were in that bar.  
18 And sometimes they would meet in the middle of the street and  
19 it would get interesting.

20 But just as an example of how hard Homer is to figure  
21 out, in this last election, in the primary election, the people  
22 voted all in favor, huge, to legalize marijuana, but they voted  
23 for Sullivan -- no, they voted for -- who's the Tea Party guy?  
24 Moore?

25 INTERVIEWER: Oh.

1 JUDGE HORNADAY: What's his name?

2 INTERVIEWER: I'm trying to think. He's from up in  
3 Fairbanks there.

4 JUDGE HORNADAY: Yeah. But they voted for him in the  
5 primary. Now how do you figure that?

6 INTERVIEWER: Yeah. Yeah, I had the same --

7 JUDGE HORNADAY: So. And I've seen -- I know that we  
8 were -- when I was on the council there was a big push to have  
9 a no smoking ordinance. And it was interesting to me that both  
10 the liberals and the conservatives kind of joined together and  
11 kind of concluded that that was too much government. And of  
12 course now most of them, they've gone smoke-free on their own.  
13 But I thought that was -- so trying to figure Homer out -- and  
14 then of course they kept reelecting Clem Tillion, who was known  
15 to be a pretty conservative guy. But, so trying to figure  
16 Homer out is kind of difficult.

17 INTERVIEWER: Yeah, that's kind of what I -- you've  
18 been here a lot longer than I have but I've heard --

19 JUDGE HORNADAY: I did get to the -- I have kind of  
20 gotten to the point, not so much now, but when I was mayor and  
21 was kind of more aware of what was going on, if I would go to  
22 some meeting somewhere and I would look and see who's there, I  
23 knew exactly how that meeting was going to -- what they were  
24 going to come out with.

25 INTERVIEWER: Yeah.

1           JUDGE HORNADAY: Or I had a pretty good idea of what  
2 they were going to come out with, yeah.

3           INTERVIEWER: So that's another question I had for  
4 you, because I know you served as mayor here quite a bit. But  
5 what was it like for you when you were mayor and you were  
6 obviously dealing with people that had been before you and in  
7 your court? Were you able to remain very objective, whether  
8 they had, you know, improved their lives and moved on from when  
9 you saw them when they were younger or whatever the case was?  
10 Did that ever come up as you worked as the mayor?

11           JUDGE HORNADAY: Oh, yeah. A lot of people that I  
12 ruled on cases on would show up on various issues. I tried  
13 very hard to have that not make a difference and just, again,  
14 look at the facts and apply the law. And, of course, it's a  
15 little different as mayor because you're actually setting  
16 policy; whereas a judge, you're following the law and what the  
17 decisions -- whether you agree or not, I had to apply the law  
18 when I was on the bench. And I did not agree with some of the  
19 higher court decisions, but I felt that I had to apply them.

20           But it was kind of similar as the judge, but the  
21 judge -- I mean, as a mayor, but the mayor, you know, the  
22 council is involved in making policy, so that's a little  
23 different situation. But I tried not to make that make any  
24 difference, whether they had been in before me or not. I know  
25 that a lot of them did show up, because I tried a lot of cases.

1 INTERVIEWER: What does it feel like to have someone  
2 you convicted be released from jail and then commit another  
3 crime?

4 JUDGE HORNADAY: Well, we don't do a very good job  
5 with rehabilitation and that's one of the goals of sentencing.  
6 And kind of a sidebar to that, on the juvenile matters, I was  
7 always hesitant to send the kids up to Anchorage because  
8 sometimes -- a lot of times they -- well, sometimes anyway they  
9 would come back a lot more sophisticated than they were when  
10 they went up there.

11 And I used a deferred imposition of sentence, DIS,  
12 quite a bit. If they were in for smoking a joint or minor  
13 consuming, I would put them on probation for six months, and if  
14 they behaved themselves then we would remove that from their  
15 record. Now you can never, especially in this day and age, you  
16 can never completely remove that, but they -- if we did remove  
17 it, then they could swear that they had never been convicted of  
18 the crime. And I thought that was important not to have these  
19 kids with records that followed them all the way through.

20 Now if it was really serious crimes, then that would  
21 be a difference. And some people agreed with that approach and  
22 some people didn't. Just like some people agreed with my  
23 approach on drunk driving and some people didn't, so.

24 INTERVIEWER: Well, I think you've mentioned -- I'm  
25 really curious, particularly since I've lived in both Anchorage

1 and in smaller towns in Alaska, about the whole idea that the  
2 Natives -- the Native Americans here have been over-represented  
3 in kind of the jail side of things, I guess, and serving longer  
4 terms. I think I read that in some of the research I did. And  
5 what do you think about how Alaska's justice system has handled  
6 racial minorities and particularly the Alaska Natives?

7 JUDGE HORNADAY: Well, I've never done an evidentiary  
8 survey on my cases. Kenai was a major village and Homer is  
9 not. My guess is it's because on the spit they couldn't get  
10 fresh water. Boy, that's an interesting question. I'm not  
11 aware of, in my sentencings, that I sentenced Natives to longer  
12 terms than non-Natives. The -- well, how do I put this.

13 Alcohol is a real problem in our society, but it's  
14 really a problem in the Native situation. And there's reasons  
15 and causes for that, and that's probably -- when well over half  
16 of the cases, at least as far as the misdemeanor cases -- and I  
17 think it's still the case -- are alcohol related, then you're  
18 going to have more people with alcohol issues in the court  
19 system.

20 And I never came across any outward racial bias, but  
21 we would have rural justice seminars and things like that. And  
22 it was very different in the villages. You know, they have to  
23 wait -- if something happened, they had to wait for the trooper  
24 to get there. And these federal cases that have been coming up  
25 recently are trying to address that. And one of the things

1 that I think kind of surprised people was to have more  
2 translators and things so that the people can understand.

3           On a sidebar to that, I represented the Village of  
4 Nanwalek once in an election case -- to show you that this is  
5 kind of, sort of related. Mike Wiley was a teacher out there  
6 and he called me up, and anyway, he and the village hired me.  
7 And they hadn't sent the ballots to Nanwalek. Well, Nanwalek  
8 has had several names, English Bay, but Alexandrovsk, that was  
9 the first Russian village on the American mainland. And before  
10 that it was Nanwalek, and then it was English Bay, and now it's  
11 back to Nanwalek.

12           Well, they didn't send the ballots for one of the  
13 elections, and so I think -- let's see, Egan was governor and I  
14 think Red Boucher was the lieutenant governor. And so I called  
15 the election supervisor and it was fascinating because they  
16 said -- the initial answer was, well, they were all drunk and  
17 it wasn't safe and that's why we didn't send the ballots.  
18 Well, we started poking around and we found a priest who had  
19 been there. No, no, they weren't all drunk. There was a few  
20 people that were drinking, but they wasn't all drunk.

21           And we poked around some more, we poked around some  
22 more. Well, then the answer was, well, they can just walk over  
23 to Port Graham and vote. Well, I mean, that's quite a hike.  
24 Why should they have to walk over to Port Graham. And  
25 historically it was a big deal to have the election. I was

1 even kind of a standing joke that they even dug up one  
2 Republican to serve on -- because most of the villages were  
3 Democrat back then.

4           And, so, we brought the election supervisor down to  
5 Nanwalek and we had a big meeting. And of course they all  
6 turned out. And what really shocked me was -- this was in the  
7 seventies -- was the graphic poverty. I mean, it was -- it  
8 just smacked you right -- hardly anybody had electricity and  
9 the hovels they were living in, and it was just -- I mean, that  
10 was even more -- impressed me even more than the election  
11 issue. Well, anyway, they agreed that they would start sending  
12 the ballots and that sort of thing.

13           But several years later -- I'm a Rotarian and we do  
14 health fairs all over the place, and we did a health fair in  
15 Nanwalek, and this was after the Native land claims, and what a  
16 huge change. I mean, everybody had a nice house, they had a  
17 brand new school, they had water and sewer. And I attribute a  
18 lot of that to the Native land claims and also the tribal  
19 monies that they've been able to get. But I mean, you have the  
20 -- they've actually making money and investing it back in the  
21 community and what a huge change it was.

22           I got kind of off the subject --

23           INTERVIEWER: No, I think --

24           JUDGE HORNADAY: -- of the Natives in the court  
25 system, but it's all kind of involved. And --

1 INTERVIEWER: No, I think the Native issue here in  
2 Homer is very interesting. We don't have a large number of  
3 Natives living here in Homer, but during your time certainly on  
4 the bench, there certainly was Natives on the other side of the  
5 bay, as well as up in Kenai.

6 JUDGE HORNADAY: Yeah, Kenai was a major --

7 INTERVIEWER: Yeah.

8 JUDGE HORNADAY: There's more Natives than you think  
9 though down here. And as I say, they're a major economic force  
10 here.

11 INTERVIEWER: Yeah.

12 JUDGE HORNADAY: And we're glad to have them.

13 INTERVIEWER: Well, what are your thoughts on what's  
14 been presented here recently with alternative courts,  
15 particularly with the Native community and, you know, I guess  
16 tribal courts would be the best label to describe that.

17 JUDGE HORNADAY: Well, I'm kind of torn. I don't  
18 think you should have two systems of justice. I have a -- I  
19 kind of have a problem with that.

20 INTERVIEWER: What about alternative courts,  
21 mediation, just any alternative?

22 JUDGE HORNADAY: Oh, I'm in favor of those.

23 INTERVIEWER: Okay.

24 JUDGE HORNADAY: I think anytime you can settle a --  
25 Judge Davis had a saying, settlement's the best -- better no

1 matter what it is. So settle everything. Yeah, mediation, I'm  
2 all in favor of that. The alternative courts though, I think  
3 eventually it will probably be all right. Of course, the VPOs,  
4 there's a big argument now whether they should be armed and  
5 I've kind of -- I haven't really gotten involved in that like  
6 as much as I used to.

7           But I think the Natives are -- we got into the tribal  
8 courts at the Judicial College in Reno and one of their tribal  
9 judges presided over a trial and I thought he did a very good  
10 job. But I still have kind of a problem if you have two  
11 different systems of justice. Of course, we have the federal  
12 system and the state system and all that and I --

13           INTERVIEWER: Were you -- one question I was really  
14 curious of, since you traveled a lot to Native villages, were  
15 you exposed to any village justice systems that were already in  
16 place so that when you had to go out to do different work, did  
17 that ever come up with Native leadership or --

18           JUDGE HORNADAY: Well, this was before -- there's  
19 been a lot of changes in that. There wasn't much of that when  
20 I was there.

21           INTERVIEWER: So do you think this happened -- you've  
22 mentioned several times when the land claims act went  
23 through --

24           JUDGE HORNADAY: I think it's all combined with the  
25 Native land claims.

1 INTERVIEWER: Okay.

2 JUDGE HORNADAY: The Natives became very -- more  
3 active. More and more of them went to school.

4 INTERVIEWER: That's very interesting. So prior to  
5 that it was just not something that --

6 JUDGE HORNADAY: Well, it was. I mean, you still had  
7 Paul and the other -- William Paul and, you know, Willie  
8 Hensley. I got to know him when he was a young man. And so it  
9 was starting.

10 INTERVIEWER: Okay.

11 JUDGE HORNADAY: It was starting, yeah. But I think  
12 it's all combined as Alaska has matured. I mean, the terrible  
13 comments that they used to make about, you know, whites only  
14 and the Natives had to sit in the back of the movie theaters  
15 and things like that. That was changing by the time I got  
16 here. Ernest Gruening was very active in putting a stop to  
17 some of that nonsense. Pioneer's, I guess at one time you  
18 couldn't let Natives into the Pioneer's and that's all changed.

19 But I think it's all connected to -- as they became  
20 more involved in the politics and became better educated and  
21 started standing up for their rights. And Willie Hensley gave  
22 a really good -- do you know who Willie Hensley is?

23 INTERVIEWER: Yeah.

24 JUDGE HORNADAY: Okay. Well, he --

25 INTERVIEWER: Yeah, I've met him before.

1           JUDGE HORNADAY: He was kind of picked up off the  
2 streets of Kotzebue by a pastor who ended up here in Homer.  
3 And he kind of became part of that family and all that sort of  
4 thing. And he took a course from Justice Rabinowitz -- I think  
5 he was Judge Rabinowitz at the time -- have you heard that  
6 story?

7           INTERVIEWER: I haven't, no. He's --

8           JUDGE HORNADAY: Well, it's kind of all related. And  
9 this is a real sidebar, but he took this course on  
10 constitutional law from Judge Rabinowitz, who became the Chief  
11 Justice and was a very revered member of the bar. He passed  
12 away now. But anyway, Willie, he had to write a paper, and so  
13 Willie started looking into the treaties and everything  
14 involving when Alaska was purchased and all that sort of thing.  
15 And Willie's pretty sharp, but he was just a college student,  
16 you know. But he was also irritated too because he said even  
17 as smart as he was when he first went to college, they put him  
18 in the low English class because he was Native. So there was  
19 something to that.

20           Anyway, he's in Judge Rabinowitz's con law class and  
21 he starts looking at these treaties and the statutes and  
22 everything, and all of them have in here the protection of  
23 aboriginal rights. And there's never any indication where the  
24 Natives gave up the rights to the land. And in the Lower 48  
25 there's always treaties and all this stuff. Well, they didn't

1 have that here. And there's no reservations. There's only one  
2 reservation, I think, Metlakatla, that's actually a reservation  
3 in the traditional sense.

4 Well, anyway, he wrote this paper that said, hey,  
5 wait a minute, we haven't -- we never gave up title to the  
6 land. Well, then here came the oil and the Trans-Alaska  
7 Pipeline, so you had the Natives and the oil companies working  
8 together to pass that, and Willie's paper was a very important  
9 part of that.

10 But, I mean, the idea -- in fact, the Wildwood Air  
11 Force Station, which was a cold war information center up in  
12 Kenai, the Natives ended up owning that and that's now the  
13 holding facility in the court system. And I -- and a little  
14 story there -- I went up there -- one time I was trying cases  
15 in Kenai and I thought I should take a tour of the holding  
16 facility up there. And as I started to go in, the warden came  
17 running out, oh, Judge Hornaday, this area has a lot of people  
18 that you sentenced. We think we should go into another area.  
19 So we did.

20 I had a reputation for being pretty hard-nosed. I  
21 don't know how correct that was, but some people said I was  
22 Hornaday the hanging judge from Homer. And they used to -- the  
23 story was they used to scare the Anchorage attorneys that if I  
24 was up there, if they would preempt the Anchorage judge, then  
25 they would, after feeding me raw meat, they would send me into

1 the trial, so.

2           And apparently one of the gasping situations was they  
3 knew that if they preempted the judge they were going to get me  
4 as the trial, and a new public defender preempted the judge and  
5 there was a gasp in the entire courtroom I guess because now  
6 she was going to get Judge Hornaday. I don't think I was that  
7 bad, but anyway, there was stories going around like that.

8           INTERVIEWER: So you've just in there, your past  
9 description there, mentioned you crossed paths with Willie  
10 Hensley as a young guy. Where did that happen?

11           JUDGE HORNADAY: Well, that had to do with the court  
12 system. Lorena Gray, who was a Native gal from Kotzebue, and  
13 who was involved in the native land claims -- and her brother  
14 was also involved in all that. Reeve Aleutian Airlines, the  
15 Native land claims were just getting started and Reeve donated  
16 a plane to fly the Natives from this area, primarily Anchorage,  
17 to Kotzebue, Unalakleet, Nome and Barrow to acquaint the  
18 Natives with the Natives in those areas. And the Natives  
19 didn't fill up the plane, so for 50 bucks -- Lorena got a hold  
20 of me and she said would you be interested, and I said, well,  
21 yeah.

22           So I got to go to Unalakleet, Barrow, Kotzebue and  
23 Nome. And I think it was in Kotzebue where we ran into Willie  
24 and Upicksoun and some of the other -- and it was a fascinating  
25 experience.

1           Wendell Kay was running for governor then and he was  
2 on the plane, so he was campaigning. And Wendell was -- you  
3 know, he's a lawyer, so I had known him. When I was law-  
4 clerking, back then all the lawyers would come to the  
5 courthouse. And now they just get on the internet. So I got  
6 to know almost -- many of the lawyers. And Wendell, of course,  
7 was very active and, you know, he was a Democrat, but he was a  
8 really good guy and a good lawyer and all that sort of thing.

9           Anyway, he's campaigning. Well, we get to Barrow and  
10 they had this fascinating lady, Sadie Neakok was the magistrate  
11 up there. She was a Brower, if you're familiar with the old  
12 Brower whaling and all that.

13           INTERVIEWER: Yeah.

14           JUDGE HORNADAY: But she was the Native side of the  
15 Brower operation, which was extensive in Barrow. And we had a  
16 meeting and, you know, the Natives dancing and, you know, it  
17 was a lot of fun. But then we had this little more serious  
18 meeting and Wendell was campaigning, of course, which I don't  
19 know if he should have been, but he was.

20           And the different Native groups started to  
21 communicate with each other and the magistrate gets up, Sadie  
22 -- just a marvelous lady. She said, okay, the Fish and Game  
23 guy from Kotzebue is coming over here next week, so quit  
24 shooting the birds while he's here. And then she said, if you  
25 do get charged, you come and call me and we'll have everybody

1 in town, will bring an illegal goose down to the courthouse,  
2 and they won't arrest everybody, so they won't arrest anybody.  
3 And then she sat down and everybody just kind of said, well,  
4 that's sounds like a reasonable approach, you know. And it was  
5 kind of a fascinating experience. Yeah, that was.

6 But I'm very impressed with the native land claims.  
7 Now, I know liberal professors and stuff, they can't stand  
8 anybody making a profit. And another sidebar, now that I'm on  
9 this Native land claims. My son went to the University of Iowa  
10 law school after me and he had a friend who went to the  
11 University of Vermont law school. And they had the same  
12 experience with these liberal professors.

13 If you get into law school, one of the things you  
14 want to do is try and write for the law review. Well, I'm  
15 going to connect this to Alaska. Okay. Well, but they assign  
16 a professor that has to approve the paper. So unbeknownst to  
17 either one of these guys at Vermont or Iowa, they both wrote an  
18 article for the law review on the Native land claims. And they  
19 both did a lot of research and they both concluded with a  
20 somewhat positive conclusion on the Native land claims.

21 Well, Josh's professor and apparently his friend's  
22 professor told them basically the same thing. Josh's professor  
23 had done a lot of work with Native and he liked reservations.  
24 He wanted the reservations. Well, I think that's a horrible  
25 way to go, but anyway, and he told Josh that Josh had done a

1 very good job but he just didn't agree with his conclusion and  
2 he wouldn't allow it to be published. And the same thing  
3 happened with his friend in Vermont.

4           So I'm really concerned. I think the liberals are  
5 much less likely to have freedom of speech than the  
6 conservatives are. You know, now they won't even let  
7 conservatives talk. And I'm kind of a mild Republican. I'm  
8 not a an extreme -- but I thought that was interesting that --  
9 and you find that now, that these liberal professors, they just  
10 -- oh, they think it's terrible that these 13 corporations are  
11 making profits and all that. I think it's great. Capitalism.  
12 Go get them, you know.

13           Anyway, that's a sideline. Got off there, sorry.

14           INTERVIEWER: No, that's no problem. So --

15           JUDGE HORNADAY: But it is connected to Alaska.

16           INTERVIEWER: -- I had -- actually, your last answer  
17 there leads me to my next sort of question. I know you're a  
18 Republican, that's kind of known even since you've retired as  
19 being the mayor. And by the way, I did remember -- it's the  
20 way my brain works -- Joe Miller is the guy --

21           JUDGE HORNADAY: Joe Miller is the guy.

22           INTERVIEWER: -- we were both trying to remember.

23           JUDGE HORNADAY: Yeah. They voted for Joe Miller in  
24 the primary and they voted to legalize pot, I think, wasn't it?

25           INTERVIEWER: Yeah.

1 JUDGE HORNADAY: Is that what it was?

2 INTERVIEWER: But my question is, have you remained  
3 active with the Republican party or is that something -- you've  
4 mentioned you're kind of a mild --

5 JUDGE HORNADAY: Not really. Oh, I still go  
6 sometimes to -- but I'll go hear a Democrat too. As I say, my  
7 partner was a Democrat. My law partner was a big Democrat, so  
8 -- and we -- but, you know, we'd argue the politics but then  
9 we'd go to work and get to work on it. That's what bothers me  
10 with these extremes, they -- and I -- well, I'm kind of getting  
11 off, but I think whether it's local, state or federal, you  
12 expect the people to do their job. And the most important  
13 thing that elected officials do is pass a budget. And there's  
14 other things, basic policy issues, and I expect them to work  
15 and get that done.

16 And what bothers me know is -- you asked a political  
17 question, so I guess I'll go that way a little bit -- that on  
18 both sides of the extremes -- in other -- if you look at  
19 Elizabeth Warren and then you look at Ted Cruz, they both use  
20 the same approach. They're really not interested in passing  
21 legislation, they're just interesting in yelling at the other  
22 guy.

23 And they both use the same approach. If you don't  
24 agree with them, not only are you wrong but you're evil and  
25 stupid. And, you know, whether it's Elizabeth Warren yelling

1 about the banks or Ted Cruz yelling about whatever the stuff  
2 he's yelling about. And I thought that was interesting that  
3 Cruz kind of got his comeuppance. That, you know, he delayed  
4 and screwed everything around so the Democrats got all these  
5 appointees, which they would probably have had somewhat of a  
6 problem because of the change. And so he kind of got a bloody  
7 nose there.

8           And Elizabeth Warren, I don't know. You can argue --  
9 you have to have the extremes because eventually they -- of  
10 course Nixon made the statement you run to the right or the  
11 left to get the nomination and then you run to the middle to  
12 get elected. And I guess there's something to that, I don't  
13 know.

14           INTERVIEWER: So in this environment that you just  
15 described, what's the role of the judges now in this really  
16 polarized environment? Do you think that extreme environment  
17 is changing things going on and throughout --

18           JUDGE HORNADAY: Well, I have a real problem --  
19 there's an old saying that all the important issues eventually  
20 end up in the courts, but I'm not sure that judges should be  
21 running things like they are. I would rather see the -- I  
22 mean, you know, they pass a bill and immediately there's a big  
23 lawsuit and they're going to impeach this guy and we're going  
24 to -- I don't know. I mean, they seem to pass legislation  
25 knowing that it's going to end up in the court, like Obamacare

1 -- which frankly, I still have hopes for. They screwed it up  
2 unbelievably bad when they introduced it and all that but I  
3 think everybody should have healthcare.

4           But I want them to work and one of the things that --  
5 you know, in our little town of Homer we passed a budget every  
6 year, a balanced budget. People yelled and hollered and all  
7 that, but it's a balanced budget. And the state sort of does  
8 that. But the federal government, I guess they finally did it,  
9 but I mean for years we haven't even had a federal budget. I  
10 guess we sort of have one now for, what, 10 months or  
11 something.

12           INTERVIEWER: Yeah, until September --

13           JUDGE HORNADAY: That's incredible.

14           INTERVIEWER: -- 15th, yeah.

15           JUDGE HORNADAY: That's incredible that they can't  
16 pass -- and we did that every year. We had an auditor and they  
17 would come in and say -- one of the things they said when I  
18 first got elected is we didn't have enough in our reserve  
19 account, that we should have six months. Well, we have about a  
20 10 million dollar budget, so that means you should have five,  
21 six million dollars. We had two million and so we put more  
22 money into the reserve account.

23           But I don't know, I understand on the federal level  
24 is that they leave on Thursday to go back to their home  
25 districts, they come back on Tuesday, so they're only working

1 one day a week on Wednesday. I mean, how can you -- and they  
2 -- I'm really getting off now, but I mean, they need to work on  
3 immigration, the tax law and deficits and all that, and they  
4 don't -- but these extremists -- I mean, and you can almost  
5 interchange the names of Ted Cruz and Elizabeth Warren -- and  
6 I'm kind of picking on them -- but I mean, they just kind of  
7 argue the same way.

8           It's just like these -- I went outside before the  
9 election and it was the same kind of nasty ads. All you had to  
10 do was change the names and it was -- you know, in Iowa, you  
11 nasty -- you're blah, blah, blah, blah, blah. And it's the  
12 same thing, you come up to Alaska, there's the same ad, it's  
13 just different names on it.

14           And so I am concerned that these extremists don't --  
15 and as I say, with my partner, we could go at it on the  
16 politics, and we still go at it on the politics, but we -- then  
17 we get done and we get the work done. And that's what I expect  
18 them to do, so. And these extremists on both -- I guess I'm  
19 kind of a RINO Republican. I don't go for the extremists and  
20 all that.

21           INTERVIEWER: So --

22           JUDGE HORNADAY: Anyway, wow, we really got off the  
23 subject.

24           INTERVIEWER: Yeah, that's all right because it kind  
25 of gets to one of the questions I wanted to ask. Things in

1 Alaska obviously have changed a great deal since you've been  
2 here and how do you think the role of judges has changed in  
3 Alaska as we've evolved both politically and then also with the  
4 type of, you know, society, what our society is like now and  
5 the issues that come up.

6 JUDGE HORNADAY: Well, when I first came up in 1960,  
7 Alaska was a brand new state and they were just writing the  
8 laws and, you know, the Constitution. So we have matured over  
9 the last 50 years in that. And we now have our own laws and  
10 we're not totally controlled by the federal government. It  
11 used to be the federal government ran everything, so we have a  
12 lot more to say about things.

13 And we have more judges and the population has  
14 increased. So we're getting more precedents so we don't have  
15 to rely so much on outside decisions, we can look at decisions  
16 that our courts have made. It's a maturing process, but some  
17 people don't like it. Did you ever meet Yule Kilcher down  
18 here?

19 INTERVIEWER: Oh, yeah.

20 JUDGE HORNADAY: Oh, he was a character. Well, we  
21 had a big celebration one time. I don't know if it was for the  
22 city -- I guess it was 50 years for the city or something. No,  
23 it couldn't have been that. Something. Anyway, had a big  
24 celebration and we all -- maybe you were there. But anyway --  
25 no, this was before you got here. We all -- the whole town

1 almost went up into the high school commons and Kilchers were  
2 playing the music and all that sort of thing. And then  
3 afterwards we all went up on the soccer field and they took a  
4 picture of basically the whole town population that we put up  
5 in City Hall. Anyway, it was a lot of fun.

6 Well, Yule Kilcher was the keynote speaker. And we  
7 introduced Yule Kilcher. We gave him a standing ovation.  
8 First words out of his mouth, first words out of his mouth, it  
9 was a lot better before all you people showed up here. And  
10 then the joke about putting a gate up at the top and taking a  
11 toll and all that sort of thing. And then he went on and on  
12 and on. And then he sat down, we gave him another standing O.

13 But some people think we have too many people here,  
14 and I don't know whether we do or not. We go up and down with  
15 the oil. The oil changed everything. And we -- 90 percent of  
16 our budget is oil. I don't know, before oil we made a living  
17 and had schools and stuff like that, but it substantially  
18 changed everything. Whether it's good or bad, I don't know. I  
19 have all kinds of kids, Permanent Fund, I don't see how we can  
20 keep giving a check to everybody, but my family gets nine of  
21 those checks every year, so. But how can you just keep giving  
22 money away?

23 Now this -- I think Jay Hammond said one of the worst  
24 things he did was sign off on eliminating the income tax, and I  
25 think maybe he's got a point because we're not used to paying

1 for anything. We just -- the oil companies give us all this  
2 money and the federal government gives us all this money.  
3 Thank you very much. And whether you -- and I don't know, I'm  
4 not an economist, I don't know if you can make enough -- are  
5 you an economist?

6 INTERVIEWER: I have a -- actually somewhat of an  
7 economic background at --

8 JUDGE HORNADAY: Okay. Well --

9 INTERVIEWER: -- the graduate level, but --

10 JUDGE HORNADAY: -- I can just ask you, can you make  
11 enough money from income tax and sales tax to make up from  
12 billions of dollars that we get from the oil companies? I  
13 don't think you can.

14 INTERVIEWER: Here, I think it would be very  
15 difficult. The east coast seems to do it, but in Alaska, I  
16 think it's going to be very difficult.

17 JUDGE HORNADAY: Maybe if you got into the Permanent  
18 Fund earnings. But I don't think you can touch the principal,  
19 can you, but the earnings --

20 INTERVIEWER: Not yet anyway.

21 JUDGE HORNADAY: -- I don't know, I think you might  
22 be able to get the earnings. But this idea of giving everybody  
23 a check, I mean it's fantastic, but I don't know how -- I mean,  
24 do you think we can continue doing that?

25 INTERVIEWER: I think that's going to be a real

1 challenge. You've mentioned some politicians I think if -- it  
2 seems like what I've heard is whoever is in the legislature  
3 now, if they ever put that on the table, that's their last year  
4 in the legislature.

5 JUDGE HORNADAY: Well, yeah. Well, see, poor old  
6 Bill Walker, I had voted for him the first time -- I didn't  
7 vote for him this time -- but, I mean, the poor guy, I mean, to  
8 lose half your revenues in between your election and  
9 installation.

10 Steve Cooper was here. I don't know if you remember  
11 him or not.

12 INTERVIEWER: I do.

13 JUDGE HORNADAY: But he had the same thing and he  
14 made the famous statement all bets are off, and he didn't even  
15 run for reelection, because he'd made all these cuts. And  
16 Murkowski, you know, he made a lot of cuts and he didn't get  
17 reelected either. And he's -- I mean, well, you're the  
18 economist, but I mean he's going to have to make some drastic  
19 cuts.

20 INTERVIEWER: Yeah, I would agree.

21 JUDGE HORNADAY: And he starts cutting into revenue  
22 sharing and all these entitlement programs, I mean, you know,  
23 I'm a senior citizen, you know, and I get a free driver's  
24 license, I get my house -- I don't pay any taxes on my house  
25 because it's just a little house within that \$170,000 limit,

1 you know. But how long can you do that?

2 INTERVIEWER: Yeah.

3 JUDGE HORNADAY: I don't know. I don't know.

4 INTERVIEWER: So the other question I had, I've been  
5 very interested in how things have changed over time,  
6 particularly related to the judicial system, and what are your  
7 thoughts on Alaska's sentencing laws and did you ever feel  
8 constrained by them? Are there changes you'd like to see in  
9 them kind of as time has evolved?

10 JUDGE HORNADAY: Well, as I told you, when I started  
11 giving stiff sentences, I was warned by my friends who were  
12 judges, they said watch out, you know, the attorneys are going  
13 to give you bad ratings. And they did. I always got good  
14 ratings from the police and from the public. They didn't give  
15 me terrible ratings, but I wasn't -- anyway, to me that's a  
16 weakness in the system. It's not as bad as if we had election  
17 judges, but if you have judges that are giving sentences -- and  
18 I -- you know, I'm not going to mention any names, but I had  
19 judges that told me that, you know, if you start giving stiff  
20 sentences the attorneys are going to rate you down because --  
21 do you understand that? The attorneys judge --

22 INTERVIEWER: I do, yeah. Only from reading the  
23 voter pamphlets.

24 JUDGE HORNADAY: Yeah, well, they send out a bar  
25 poll.

1 INTERVIEWER: Okay. Yeah.

2 JUDGE HORNADAY: And you rate a judge -- it used to  
3 be from 1 to 5, and the 1 was really bad and the 5 was better,  
4 was tops and all that. And I usually ended up somewhere in the  
5 middle. And if that's -- I'm not saying that any judge is  
6 taking that into consideration, but if they are, I think that's  
7 a real weakness in the system.

8 INTERVIEWER: Do you think it's changed over time,  
9 how sentencing is being carried out?

10 JUDGE HORNADAY: Well, of course the legislature  
11 answered that with the mandatory sentences for drunk driving.  
12 After my experience, they increased the sentences. Whether I  
13 had anything to do with it, I don't know. I suspect I did, but  
14 -- because it was quite a stink. I mean, it was in the paper,  
15 I was on TV and all this jazz. Yeah, I don't know. I don't  
16 know whether -- I think you still have the problem. It's  
17 50/50. Somebody wins and somebody loses if you actually go to  
18 a trial. And if you lose, you're not happy. I don't think  
19 that's changed.

20 INTERVIEWER: Okay.

21 JUDGE HORNADAY: Whether the people are more  
22 accepting of the court system, I don't know. But still, most  
23 of the major issues end up in the courts. And as far as I can  
24 tell, I think the Alaska judges are still applying the law and  
25 the facts. But I have not been -- you know, I've been retired

1 now and so I haven't really been involved with them.

2 INTERVIEWER: Okay. Well, the other question I  
3 have --

4 JUDGE HORNADAY: I don't even know who they are now,  
5 even for the Supreme Court. I think the last time -- I think I  
6 only knew one of those that was applying for the Supreme Court,  
7 so I'm sort of an irrelevant whatever now, old koot.

8 INTERVIEWER: Well, along those same lines, what are  
9 your views about the system's rate of repeat offenders and is  
10 there anything in --

11 JUDGE HORNADAY: The what now?

12 INTERVIEWER: Repeat offenders. Do you have any  
13 thoughts now after you've been retired and --

14 JUDGE HORNADAY: Well, we had so many alcohol  
15 related, and I did have some people thank me for the sentences  
16 that I gave. I was up in Anchorage at a basketball tournament,  
17 my kids played basketball, and I was way up at the very top and  
18 this really good-sized young man looked up at me and said are  
19 you Judge Hornaday? And I said yeah. And he starts coming at  
20 me. And I thought, geez, I can't whip him and I probably can't  
21 run away from him. But he stuck out his hand. He said thank  
22 you for getting me into a program and helping me get  
23 straightened out. You don't hear that very often.

24 The alcohol sentencing was really disturbing and  
25 depressing. The most luck I had was in these 30-day in-house

1 programs. I had a few people who got straightened out that  
2 way. But I think as far as rehabilitation -- and I don't know  
3 what the answer is -- well, just as an example, on this alcohol  
4 thing, we had a -- there was a Russian Old Believer woman who  
5 had had one or two kids who had alcohol syndrome. And the  
6 alcohol people came to me and they wanted her arrested on some  
7 minor charge and they wanted me to set a high bail on her to  
8 protect the child because she was pregnant again.

9           And I thought about that. And they didn't get a  
10 lawyer, so we didn't have a hearing on it, but my initial  
11 thought was, well, she can just go get an abortion. Is this  
12 really an appropriate use of the court system? And I decided  
13 it probably was not, and so I didn't get involved in that. And  
14 I hope the baby was all right, but I didn't follow up on it.

15           So I don't think you can use the court system to  
16 answer all the problems. That was one of the criticisms of my  
17 drunk driving cases, that the people said you can't change  
18 people. But it did. I had people telling me that they were  
19 taking more cabs and all that. There was even a rumor started  
20 that I had a financial interest in a taxi cab company in Homer.  
21 I mean, that's how Homer is. You know, these stories get  
22 started, rumors and all that, yeah.

23           As far as I can tell, the court system is functioning  
24 like it should. I don't --

25           INTERVIEWER: All right.

1           JUDGE HORNADAY: You have all different opinions on  
2 that. The court system had a reputation for being pretty  
3 liberal. I know that -- and this is a sidebar, but it's kind  
4 of connected. I don't know if you're aware of it or not, but  
5 the Alaska Supreme Court legalized marijuana in the home,  
6 personal use of marijuana in the home, as a result of a lawyer  
7 from Homer. Irwin Ravin. I don't know if you ever met him  
8 or --

9           INTERVIEWER: No, I haven't heard this.

10          JUDGE HORNADAY: Well, he was stopped by the police  
11 for a taillight out, as the story goes. This is substantially  
12 what happened. There may be some details that I have wrong.  
13 Well, and the guy -- they searched the car and found a baggie.  
14 Well, from that fact situation, the Alaska Supreme Court  
15 legalized pot, personal use for pot in the home.

16          And I didn't realize what an astounding exception  
17 that was until I went down to the Judicial College. And even  
18 the liberal law professors and the judges that were lecturing  
19 said this is just incredible, because all the other cases, they  
20 were interpreting some kind of a law or a rule.

21          INTERVIEWER: And this was in the mid-late seventies?

22          JUDGE HORNADAY: Yeah, it was the mid-seventies.

23          INTERVIEWER: Yeah.

24          JUDGE HORNADAY: But we didn't have any of that here.  
25 The Supreme Court, just on its own, from -- and I know several

1 times the Supreme Court, at our seminars, they would assign  
2 certain topics for the Supreme Court justices to lecture on.  
3 And I remember Justice Burke at the time, he was lecturing on  
4 something, and he happened to get into this and he said I still  
5 don't know how we got from the car and the taillights into  
6 legalizing pot in the home. How did we do that, you know.

7           And as I say, I wasn't aware of how exceptional this  
8 was until I went down the Judicial College and these guys  
9 looked at me like I was, you know, some kind of a raving idiot  
10 or something. What are you doing, because every other state,  
11 they would interpret the law, and they would say, well, the law  
12 is too stringent or the law is okay about you can't have this  
13 or that with the pot and the -- but in Alaska, they're so very  
14 -- taillight off, legalize it in the home. And I think it's a  
15 huge mistake to legalize it, but that's by the by now I guess.

16           INTERVIEWER: So you've mentioned this about  
17 yourself, but I'm curious about what you think about the system  
18 in general. What do you think about judicial retention and the  
19 selection process here in Alaska?

20           JUDGE HORNADAY: Well, as I say, I think it's much  
21 better than election. It's probably the best you can do,  
22 because you do get into the politics.

23           INTERVIEWER: So even though --

24           JUDGE HORNADAY: I don't think there's -- I mean, my  
25 wife used to have teas for Clem Tillion and, you know, I was a

1 Republican, he was a Republican. Bob Palmer was Hammond's  
2 Chief of Staff. He was a Republican from Ninilchik. I suppose  
3 my political connection had something to do with that, but  
4 there is the check on that, because they have this retention  
5 thing, whether they can say yes or no.

6 And I run into people that say I always vote no on  
7 all the judges because I don't know anything about them and I  
8 don't -- a bunch of liberal idiots. And we figured that you  
9 had about a third that were going to vote no automatically, you  
10 had about a third that were going to vote yes automatically,  
11 and it was that middle that you had to not irritate.

12 INTERVIEWER: Okay.

13 JUDGE HORNADAY: I don't know whether that's still  
14 going on or not.

15 INTERVIEWER: Well, what do you think about our  
16 selection process here and updating diversity on the bench? Is  
17 it a factor, just the way we have the process now?

18 JUDGE HORNADAY: Well, I don't think there's any  
19 doubt that the whole legal profession used to be a bunch of  
20 white guys. I think we're getting more women. We're getting  
21 more blacks, Natives, Asians, other minorities. When I came on  
22 it was basically white Democrats. I think there was one other  
23 judge, Judge Hodge up in Nome or something, who had been a  
24 Republican. So I think it's much more diverse now, yeah.

25 INTERVIEWER: What about the rural judgeships, is

1 that -- I guess that's proved to be a problem in the past. Do  
2 you have any thoughts on --

3 JUDGE HORNADAY: Well, I think they should live in  
4 the community. If you're a judge, I think you should live in  
5 the community or as close as you can. And just to go back to  
6 our situation, when we made them promise, when we got the  
7 superior court judge in Kenai, we went with Sitka and Kodiak.  
8 And there was the three of us, we had Kenai, Kodiak and Sitka  
9 went in and we got superior court judges at that time. And  
10 Judge Hanson, in writing, said he would move to Kenai. The  
11 Kodiak and Sitka did not get that, and their judges for years  
12 remained in Anchorage and Juneau.

13 So I'm very strong on moving the judges to close  
14 where -- and I think that might be an argument in favor of  
15 these Native judges. Although I still have a problem of  
16 different systems and treating people differently, but I think  
17 that's an argument for the Native judges, that they would be in  
18 the community. But it would be extremely difficult -- I mean,  
19 it wasn't easy in Homer where you know everybody. You're the  
20 chamber of commerce and you put this guy in jail, and these  
21 very nice ladies, and you've given them a fine for -- I know  
22 one time -- I shouldn't have but -- this is really a sidebar.  
23 But one time there was some really good-looking -- what's the  
24 Norwegian airline?

25 INTERVIEWER: I know the Swedish is SAS.

1 JUDGE HORNADAY: Maybe it was. SAS I think it was.

2 INTERVIEWER: Okay.

3 JUDGE HORNADAY: These really good-looking  
4 stewardesses came down and they got charged with fishing in an  
5 illegal area or taking too small a fish or something like that.  
6 And it was really something because they really turned on the  
7 charm. They said, oh now, Judge -- you know, they were smiling  
8 and giggling, you know. And I would say something, oh, oh, oh.  
9 And when I fined them, boy, the attitude changed immediately.  
10 So, again, half the people win and half the people lose on the  
11 -- I mean, you get into the religious aspects of whether  
12 killing a moose -- and all that sort of thing. I think that  
13 probably should be taken into consideration.

14 So I probably overall would support the local judges  
15 in the villages, but how you're going to administer that gets  
16 to be -- how you're going to pay them. You know, what -- are  
17 you going to -- federal law, are you going by state law. You  
18 know, it's complicated. But I think the closer you are the  
19 better it is because otherwise you're having to travel. I  
20 mean, it really was a burden going up to Anchorage. Get in the  
21 plane and then you sit there and listen, you go through the  
22 Anchorage calendar and sometimes the files wouldn't be there  
23 and all that and you'd have to go back and -- anyway.

24 INTERVIEWER: So we've talked about --

25 JUDGE HORNADAY: One of the things we did start was

1 -- and this goes back to the -- you asked for changes. One of  
2 the big changes was doing calendar calls on the phone.

3 INTERVIEWER: When did that happen?

4 JUDGE HORNADAY: Oh, gosh, I suppose it's been going  
5 on -- but I know that it really became much more popular so you  
6 didn't have to haul your clients around to all these courts and  
7 you didn't have to show up, you could do the calendar call.  
8 And, of course, Anchorage, everybody used to -- okay, come on  
9 in and we're going to do the calendar call. Well, I didn't  
10 want to go to Anchorage for the calendar call, so the  
11 telephonic calendar calls made a substantial change in the --  
12 you were trying to -- I didn't do very good at coming up with  
13 changes to the way the court system operates.

14 INTERVIEWER: Well, I think that it led on to a --  
15 you've hit a number of points that I was going to ask that I  
16 really don't have to. But one of the things you've brought up,  
17 particularly on the local -- how important it is to have local  
18 -- the judge in the community. And the other community we have  
19 here in Homer that we haven't really hit on are the Russian  
20 communities. And what kind of challenges did that hold for  
21 you, and then as far as improvements with judges that are now  
22 in place, can you suggest anything along those lines?

23 JUDGE HORNADAY: Well, I don't know what's going on  
24 now, but they had to bring in their own translators. I had  
25 kind of a humorous experience. Amy Morris was the magistrate

1 and also the clerk, and she spoke Russian. And several times  
2 before we would go in on arraignments the Russians would be in  
3 there. Well, they didn't think anybody spoke Russian, so  
4 they'd be talking Russian among themselves and none of it was  
5 very complimentary towards the court system and the judge and  
6 all that kind of thing.

7           And so one time they were doing that and she knew  
8 what they were saying and she answered them in Russian and I  
9 guess it really surprised them.

10           One of the problems -- well, domestic violence was a  
11 real issue and the alcohol is a big problem there too, even  
12 more so than in the general society. From what I -- I don't  
13 have any statistics, but it just seemed that that was the --  
14 one of the real problems was they won't eat food prepared --  
15 the real conservatives, they won't eat food prepared by us  
16 gentiles. We can eat their food. Well, these guys, I'd put  
17 them in jail for a couple of days, well, they wouldn't eat the  
18 jail food. Well, here would come the women with the food.  
19 Well, you know, the jailer was saying what all's going in  
20 there, you know. So that got to be kind of an issue.

21           Their fear of the government was something, and I  
22 think that's gotten better. But when I was practicing law -- I  
23 don't know if you knew General Talley over in --

24           INTERVIEWER: I did not.

25           JUDGE HORNADAY: He was a big warrior. He built the

1 airstrips out in the -- World War II -- out in the Aleutians.  
2 He was a genuine war hero. He had a bunch of property and he  
3 sold it to the Russians. And I had a little office down here  
4 and they all filed in and --

5 INTERVIEWER: Was this for one of the villages?

6 JUDGE HORNADAY: Yeah, Nikolaevsk.

7 INTERVIEWER: Oh, okay.

8 JUDGE HORNADAY: And this was a private land sale.  
9 And so I said, well, okay, I was preparing the papers and I  
10 said, well, who's going to sign? And I noticed that they  
11 seemed to be very, very suspicious of me. And so he said we're  
12 going to have to take a recess. And so he went out in the hall  
13 and talked to him. He says, well -- you see, in their history  
14 the czars persecuted them, and of course the communists just  
15 butchered them, so -- and they went after the government  
16 officials, so anybody that spoke up in a leadership role was  
17 often subject to having his head cut off or something. So  
18 they, for some reason, thought I was part of the government. I  
19 wasn't. I was just a private lawyer. So they hesitated to  
20 take up -- you know, I'll sign. You know, that -- and finally  
21 they figured out who was going to sign and we concluded the  
22 thing. But that's -- very, very suspicious of the government,  
23 which is understandable.

24 But one of my few successes in sentencing drunk  
25 driving -- I don't know if you've met Akati Kalugin.

1 INTERVIEWER: No.

2 JUDGE HORNADAY: Well, he's an Old Believer and they  
3 fled Russia and they got across the river and they made his dad  
4 go back, so he never did see his dad again. Then they went to  
5 China and Mongolia, and if you know their history --

6 INTERVIEWER: Uh-huh.

7 JUDGE HORNADAY: -- Oregon, and then they came up  
8 here. Well, Bob Moore has done a lot of that and when I was on  
9 the assembly we went in, the young bucks wanted the road in  
10 there and the old people didn't. Anyway, the young bucks won  
11 and -- but it was like going back in time a hundred years.  
12 They used an abacus and all that.

13 But anyway, I've wondered here -- but anyway, Akati,  
14 the first time I saw Akati -- or it's Akaki (ph), one or the  
15 other. Anyway, he comes in. This was his sixth DWI. And he  
16 had just served six months down in Oregon on a DWI. And they  
17 didn't want him in the village. He stole a car and, anyway,  
18 blah, blah, blah, they didn't want him. Shunned him and all  
19 that, and -- or whatever they call it. And I looked at him and  
20 I said, well, have you ever had any kind of alcohol treatment  
21 in an alcohol program? No. Nah, I've never been in anything  
22 like that. So he was one of the ones, one of the first ones  
23 that I put into a 30-day program in Kodiak.

24 Well, about 20 days later I get this call from him  
25 and the Kodiak people. He's doing very well, he had a job, and

1 he wanted to be let out a little early. And they praised him.  
2 He said, yeah, he's developed very well. So I let him out.  
3 Well, he's become one of our prime assistants. He helps with  
4 interpreting, he's remained clean, as near as I can tell, and  
5 he's become a real leader in the community. So that's one of  
6 the few successes that I've had with the Russian Old Believers  
7 and with any kind of sentencing on alcohol related things.

8           They have assimilated, as near -- I went to one of  
9 their naturalization things. Judge Fitzgerald was on the  
10 federal bench and he came down and invited me to attend. And I  
11 warned him about the Russian wine. You know, he's an Irishman  
12 but I said, well, be careful about that.

13           From what I can tell -- and I don't know, maybe  
14 you've looked at it too -- they have assimilated reasonably  
15 well.

16           INTERVIEWER: Yeah, I -- after the interview is  
17 conducted here, I will kind of give you my background with  
18 them, but --

19           JUDGE HORNADAY: Yeah. But they -- we went to the  
20 first land sales, but they had the money from the Tolstoy  
21 Foundation and stuff. And we didn't have near enough money to  
22 buy any of the land. They're very -- they're kind of like  
23 Baptists. They get in a fuss and they just go form another  
24 village. But my guess is that -- I mean, you're probably more  
25 aware of it than I am, but at least from what I've seen,

1 they've assimilated pretty well. My kids -- my older boy  
2 played basketball and he said the Russian kids were the best  
3 pool players.

4           And my daughter played basketball, and several times  
5 you'd go over the to the basketball practice and there would be  
6 all these young Russian guys sitting there in the stands.  
7 Well, back then their girls wore these long skirts and stuff,  
8 and this was the first time they'd seen girls in shorts. That  
9 was a big event for them. They'd go watch the practice just to  
10 see the girls in shorts, which is normal, I guess.

11           I think it's overall been pretty successful. They've  
12 been very involved in the fishing. They build boats. Schools,  
13 they have the different holidays and things like that. Now  
14 they want a new school out at Razdolna or wherever it is.

15           INTERVIEWER: Uh-huh. Yeah.

16           JUDGE HORNADAY: Looks to me like a fairly -- much  
17 more successful than some of the other groups that -- if you go  
18 to the college graduation, about well over half are these women  
19 who are Old Believers. And you see them working in the banks  
20 and all that. The men are more likely to fish and  
21 construction, but the women, they're getting the education and  
22 all that kind of stuff.

23           I think sometimes they've had some opposition at home  
24 for that, but I think that's changing. Looks to me like a  
25 success.

1 INTERVIEWER: Uh-huh.

2 JUDGE HORNADAY: Maybe -- you're probably more  
3 knowledgeable on that than I am.

4 INTERVIEWER: Well, I have some final questions here  
5 for you. Can you talk about when and why you retired from the  
6 bench?

7 JUDGE HORNADAY: Yeah, my wife died and I was  
8 terribly -- we almost made 25 years and I was terribly lonely,  
9 so I got married again and sold myself to Iowa Wesleyan College  
10 for a couple of years. And I guess I was lonely. I shouldn't  
11 have gotten married again. It didn't last more than two years.

12 On the other hand, one of her boys is up at the bible  
13 college, they're from Iowa, and we get together every now and  
14 then. Yeah, I just was terribly lonesome.

15 INTERVIEWER: And what have you been doing since  
16 retirement?

17 JUDGE HORNADAY: Well, I was the mayor. That was  
18 interesting. I think --

19 INTERVIEWER: How long were you the mayor?

20 JUDGE HORNADAY: Eight years, four terms. I think  
21 Jack Cushing and I hold the record on that as far as length of  
22 time for mayors. And that was interesting. I'm involved in a  
23 lot of Center for Coastal Studies, the church, Rotary, bear  
24 reserves, stuff like that.

25 Music, very active in. We have a ukelele club that

1 has 30 in it now and I write songs and enjoy my kids. But  
2 there's a difference now. You know, before you had to go to  
3 meetings; now you should go to meetings. You don't have to,  
4 but you should go to meetings.

5 INTERVIEWER: What, if anything, do you miss now that  
6 you are not -- you know, since you're no longer serving as a  
7 judge?

8 JUDGE HORNADAY: Well, just getting involved more in  
9 the issues. Traveling to the different towns and getting to  
10 know people in the court system. And you'd usually get to meet  
11 some of the leaders in the towns and find out what's going on.

12 But I was practicing -- after I practiced for 15  
13 years I -- I'm a Luddite, I'm opposed to all this technology.  
14 Even Hawking and these guys are telling us that technology is  
15 going to destroy humanity and I think it's right. I mean, this  
16 North Korean thing, we almost went to war over a cyber --  
17 stupid, and all that sort of thing. So, I don't know, who  
18 knows what's going to happen. I don't.

19 But I do think this cyber thing is -- I mean, I was a  
20 law clerk, so I was really up, I really excellent on research,  
21 but now I couldn't even begin. But back to when I got ready to  
22 retire, I was going to have to get into software. I was  
23 probably going to have -- I had a solo practice and I was --  
24 the Houghs, I was in their office building, and they were very  
25 good to me. But I was probably going to have to hire somebody

1 and get involved in software and I, oh, I didn't want to do  
2 that.

3           And I had two cases that settled at about the same  
4 time, and they went the right way. My clients got paid, I got  
5 paid. Nobody took bankruptcy. We didn't have garnish or  
6 anything. And I said, you know, I'm going out a winner. So I  
7 retired. I had put 42 years in lawyering and judging. And I  
8 was 67 years old, which is about average for retiring, I guess.  
9 Maybe it's a little old. Guys are retiring now earlier, I  
10 guess. But they -- I don't know, some -- I didn't do it right,  
11 I guess. They say you shouldn't take your social security but  
12 I took mine early. They told me I'd have to be 81 before it  
13 would make a difference, but -- you're not that old, are you?

14           INTERVIEWER: No, I'm not that old. No. But I'm not  
15 much younger than you are either.

16           JUDGE HORNADAY: Well, how old are you?

17           INTERVIEWER: I will be 58 this coming Sep --

18           JUDGE HORNADAY: Oh, you're just a kid. You're just  
19 a kid. And you were able to retire? Good for you. You got  
20 kids?

21           INTERVIEWER: No kids.

22           JUDGE HORNADAY: Oh, well, that's the reason you can  
23 retire. You got some money probably. My kids, no matter how  
24 much money I made, it just went out like the tide going out.  
25 That was the way that went, yeah.

1 INTERVIEWER: Well, I've gone through all the  
2 questions I wanted to ask you. Do you have any more  
3 information that you'd like to --

4 JUDGE HORNADAY: Well, one thing --

5 INTERVIEWER: -- put on the record?

6 JUDGE HORNADAY: -- I've been doing a lot of  
7 traveling. I've been on six continents. I climbed Mt.  
8 Kilimanjaro. And everywhere I go, I ran into somebody who's  
9 either been to Homer or who knows something about Homer. When  
10 I was just outside, I visited my sister in Lincoln, Nebraska  
11 and went to a Rotary meeting. Sat down next to a nice lady.  
12 Homer? Oh, yeah, we fish up there every spring.

13 Coming back, I got on the plane from Chicago to  
14 Seattle, lady's sitting next to me, I was looking at my  
15 schedule, she said, are you from Homer? I said yeah. We went  
16 up there several times.

17 Got on the plane from Seattle to Anchorage and there  
18 was a teacher in Homer that I had met, she taught at Paul Banks  
19 school. And wherever I went, in Texas -- my kids are spread  
20 out from Washington to Illinois to Virginia -- everywhere I  
21 went, run into somebody that knew something about Homer.

22 INTERVIEWER: Yeah, it's a --

23 JUDGE HORNADAY: So I guess the chamber is doing a  
24 good job getting the word out.

25 INTERVIEWER: Well, I'd like to thank you, Judge

1 Hornaday, for --

2 JUDGE HORNADAY: Yeah, I enjoyed it.

3 INTERVIEWER: -- the interview.

4 JUDGE HORNADAY: I enjoyed it.

5 INTERVIEWER: And I'm going to be wrapping up the  
6 interview right now. Thanks again.

7 JUDGE HORNADAY: Uh-huh.

8 (Off record)

9 END OF PROCEEDINGS

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TRANSCRIBER'S CERTIFICATE

I, Kathleen Amand, hereby certify that the foregoing pages numbered 1 through 67 are a true, accurate and complete transcript of proceedings transcribed by me from a copy of the electronic sound recording, to the best of my knowledge and ability.

April 30, 2015  
Date

  
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Kathleen Amand, Transcriber